

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
Case No.: 7:23-CV-897**

IN RE:

CAMP LEJEUNE WATER LITIGATION

This Document Relates to:

ALL CASES

**PLAINTIFFS' LEADERSHIP GROUP'S  
MOTION TO ENFORCE CASE MANAGEMENT ORDER NO. 2**

The Plaintiffs' Leadership Group ("PLG") hereby respectfully moves the Court for an order enforcing Case Management Order No. 2 ("CMO-2") (D.E. 23) by voiding Defendant's selection of certain plaintiffs as Track 1 Discovery Plaintiffs in Defendant's filing titled: Notice of United States' Revised Track 1 Discovery Plaintiffs Selections (D.E. 75) (the "Second Selection"). In support of this motion, the PLG shows as follows:

1. Defendant's Second Selection marks the second time that Defendant has violated CMO-2 in selecting plaintiffs for the Discovery Pool: First, when Defendant included its selection of Discovery Plaintiffs in the Parties' Joint Notice of Filing – Track 1 Discovery Plaintiffs on December 5, 2023 (the "First Selection"), Defendant included 29 plaintiffs who were ineligible to serve as Discovery Plaintiffs because the plaintiffs had chosen to file Short Form Complaints after the CMO-2 deadline for inclusion in the Discovery Pool. The PLG did not move to strike these plaintiffs but rather offered Defendant the opportunity to replace the improper selections with new ones.

2. Instead of taking the opportunity to pick eligible plaintiffs for the Discovery Pool, Defendant violated CMO-2 a second time, this time selecting 16 plaintiffs who were ineligible to serve as Discovery Plaintiffs because the plaintiffs' counsel had expressly opted them out of the Discovery Pool, as prescribed by CMO-2.

3. At the time of Defendant's Second Selection, counsel for the 16 ineligible plaintiffs ("Mr. Foster") had already complained about the PLG directly to Defendant. Further, Mr. Foster had used extremely discourteous language in emails to a member of the Plaintiffs' Steering Committee concerning the bellwether selection process.

4. Given Defendants' refusal to comply with the procedures agreed to by the Parties—and ultimately adopted by the Court in CMO-2—the PLG respectfully requests that the Court require Defendant to choose eligible plaintiffs which comply with the Court's Order. Further, the PLG asks that this Court void Defendant's selection of plaintiffs represented by Mr. Foster.

5. Contemporaneous with the present motion, the PLG submits a Memorandum of Law in Support of Motion to Enforce Case Management Order No. 2.

WHEREFORE, the PLG respectfully requests that the Court strike from the Second Selection the 16 ineligible plaintiffs; strike from the Second Selection the plaintiffs represented by Mr. Foster; and grant such other and further relief the Court deems proper.

*[Signatures follow on next page]*

DATED this 12th day of December, 2023.

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**CERTIFICATE OF SERVICE**

I, J. Edward Bell, III, hereby certify that the foregoing document was electronically filed on the Court's CM/ECF system on this date, and that all counsel of record will be served with notice of the said filing via the CM/ECF system.

This the 12<sup>th</sup> day of December, 2023.

/s/ J. Edward Bell, III\_\_\_\_\_

J. Edward Bell, III